

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JOE HENRY BANDY,

Civil No. 05-1376 (JRT/SRN)

Petitioner,

v.

ORDER

TERRY CARLSON,
Warden of MCF/Moose Lake,

Respondent.

Joseph Henry Bandy, III, #125257, Minnesota Correctional Facility, 7600 525th Street, Rush City, Minnesota 554069-2265, *pro se* petitioner.

Thomas R. Ragatz, Assistant Attorney General, OFFICE OF THE MINNESOTA ATTORNEY GENERAL, 445 Minnesota Street, Suite 1800, St. Paul, Minnesota 55101-2134, for respondent.

The above-entitled matter comes before the Court upon the Amended Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated January 24, 2006. No objections have been filed to that Amended Report and Recommendation in the time period permitted.

Based on the Amended Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. Petitioner's application for a writ of habeas corpus, (Docket No. 1) is **DENIED**;
2. Petitioner's Motion to Vacate (Doc. No. 3) is **DENIED**;

3. Petitioner's Motion for Leave to Proceed in Forma Pauperis (Doc. No. 8) is **DENIED**;
4. Petitioner's Motion to Amend Petition and to Transfer Petition Pursuant to 28 U.S.C. § 1631 (Doc. No. 10) is **DENIED**; and
5. This action is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 13, 2006
at Minneapolis, Minnesota

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge